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4 UNITED STATES DISTRICT COURT  
5 DISTRICT OF NEVADA

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7 UNITED STATES OF AMERICA,

Case No. 2:13-cr-00405-KJD-GWF

8 Plaintiff,

ORDER

9 v.

10 LARRY MONDRELL GIBBS,

11 Defendant.  
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13 Presently before the Court is Defendant's Motion re: Delayed Implementation of the First  
14 Step Act Good Time Credit Fix (#96). Though the time for doing so has passed, no response in  
15 opposition has been filed.

16 Defendant was adjudicated guilty of one count of an indictment alleging felon in  
17 possession of a firearm and sentenced on April 1, 2015 to eighty-four (84) months of custody.  
18 On February 25, 2019, Defendant filed the present motion asserting that his rights were being  
19 violated because though the First Step Act of 2018 ("First Step Act") allowed an increase in  
20 good time credits to be retroactively applied to his sentence, its delayed implementation was  
21 resulting in him being detained longer than necessary.

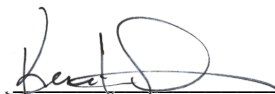
22 However, the First Step Act does not yet authorize the relief that Defendant seeks. The  
23 good-time provisions of the First Step Act did not become effective when the Act took effect on  
24 December 21, 2018. The Act amended 18 U.S.C. § 3624(b) to allow a prisoner to earn a  
25 maximum of 54 days for each year of the sentence imposed. See Public Law 115-391, 132 Stat.  
26 5194, § 102. However, the change will not take effect until the Attorney General completes the  
27 "risk and needs assessment system" required to be completed by 210 days after the First Step  
28 Act's enactment. Id. at §§ 101, 102. Therefore, the change in calculation of good-time credit will

1 not take effect until approximately July 2019. See id.

2 Federal courts are limited under Article III of the United States Constitution to deciding  
3 “cases” and “controversies.” To ensure that a district court adheres to this requirement, a claim  
4 must be “ripe,” meaning that an administrative decision must be formalized and its effects must  
5 be felt in a concrete way by the challenging party. Abbott Laboratories v. Gardner, 387 U.S. 136,  
6 148–49 (1967), *overruled on other grounds by* Califano v. Sanders, 430 U.S. 99, 105 (1977). “A  
7 claim is not ripe for adjudication if it rests upon contingent future events that may not occur as  
8 anticipated, or indeed may not occur at all.” Texas v. United States, 423 U.S. 296, 300 (1998)  
9 (internal citations omitted).

10 Because the BOP has no authority to recalculate Defendants good-time credit according  
11 to the First Step Act until the relevant provisions take effect in approximately July 2019, the  
12 question of whether the BOP erred in administering Defendant’s sentence is premature. Accord  
13 Roy v. United States Bureau of Prisons, 2019 WL 1441622, at \*1-2, (E.D. Wash. April 1, 2019);  
14 Nichols v. Burch, 2019 U.S. Dist. LEXIS 41595, at \*4 (D. Ariz. Mar. 12, 2019)  
15 (dismissing section 2241 petition for recalculation of good-time credit as premature because  
16 BOP cannot apply good-time calculations of the First Step Act until approximately July  
17 2019); Shorter v. Dobbs, 2019 U.S. Dist. LEXIS 13235 at \*4 (S.D. Fla. Jan. 25, 2019) (finding  
18 premature a prisoner's claim of deprivation of good-time credits under the First Step Act).

19 Accordingly, IT IS HEREBY ORDERED that Defendant’s Motion re: Delayed  
20 Implementation of the First Step Act Good Time Credit Fix (#96) is **DENIED as premature**.  
21 Dated this 23rd day of May, 2019.

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24 Kent J. Dawson  
25 United States District Judge  
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